



Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 25, 2005
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

THREE DEFENDANTS INDICTED, FOURTH PLEADS GUILTY IN TAKEDOWN OF MAJOR INTERNATIONAL SPAM OPERATION

First Indictments, Conviction Related to Obscene Bulk, Unsolicited E-mails

WASHINGTON, D.C. – Three individuals have been indicted by a federal grand jury in Phoenix on charges of violating the CAN-SPAM Act of 2003, along with federal obscenity, money laundering and conspiracy charges, Acting Assistant Attorney General John C. Richter of the Criminal Division and U.S. Attorney Paul Charlton of the District of Arizona announced today. The CAN-SPAM Act is a federal law designed to crack down on the transmission of bulk, unsolicited commercial electronic mail messages.

A fourth defendant involved in the conspiracy outlined in the indictment has pleaded guilty to related charges, marking the first conviction related to the transmission of obscene spam e-mails.

The nine-count indictment returned today names Jennifer R. Clason, 32, formerly of Tempe, Arizona; Jeffrey A. Kilbride, 39, of Venice, California; and James R. Schaffer, 39, of Paradise Valley, Arizona. The indictment charges all three defendants with two counts of fraud and related activity in connection with electronic mail under the CAN-SPAM Act and one count of criminal conspiracy. The indictment also charges Kilbride and Schaffer with two counts of interstate transportation of obscene material using an interactive computer service, two counts of interstate transportation of obscene material for the purpose of sale or distribution, and one count of money laundering. Schaffer is also charged with one count of operating three pornographic Internet websites without including required statements describing the location of identification and other records for the performers portrayed in the websites, as is required by federal law.

“Americans are fed up with the tens of millions of unsolicited, sexually explicit e-mails received every day,” said Acting Assistant Attorney General Richter. “Today’s announcement should send the message loud and clear that the Department is committed to using the CAN-SPAM Act and the federal laws to stop those who invade the homes of American families with unwanted, obscene spam.”

“The Internet is both a blessing and a curse. Unwanted e-mail and pornography in our houses represents a kind of home invasion. Children are especially vulnerable to this kind of act and we will vigorously pursue those who put children at risk in this way,” added U.S. Attorney Charlton.

According to the indictment, Clason, Kilbride, and Schaffer conspired to engage in the business of sending spam e-mails for their own personal gain, benefit, profit and advantage. America Online, Inc. received more than 600,000 complaints between January 30, 2004 and June 9, 2004 from its users regarding spam e-mails that had allegedly been sent by the defendants' spamming operation. It is estimated that the actual number of its users who received these unsolicited e-mails may number in the tens of millions. A list maintained by Spamhaus, an international non-profit organization which collects information and evidence on the worst spammers worldwide, reports that the defendants' spamming operation is one of the 200 largest in the world.

The indictment further alleges that the spam e-mails sent by the defendants advertised pornographic Internet websites in order to earn commissions for directing Internet traffic to these websites. It is alleged that graphic pornographic images were embedded in each of the defendants' e-mails. Four counts of the indictment charge felony obscenity offenses for such transmission of hard-core pornographic images of adults engaged in explicit sexual conduct, which meet the Supreme Court's test for adult obscenity.

According to the indictment, the spam e-mails were sent in a manner that would impair the ability of recipients, Internet service providers processing the e-mails on behalf of recipients, and law enforcement agencies to identify, locate, or respond to the senders. This deception was accomplished in a number of ways, including the following: sending the spam e-mails from Internet Protocol addresses registered in the Netherlands and domain names registered in Mauritius; falsifying the "From:" line in the e-mails; installing the computers sending the e-mails and related equipment in the Netherlands; and remotely controlling these computers from the United States. The indictment further alleges that Kilbride and Schaffer also created and utilized overseas companies named The Compliance Company and Ganymede Marketing to conceal and disguise their activities. According to the indictment, Kilbride and Schaffer also utilized overseas bank accounts in Mauritius and the Isle of Man for the purpose of laundering and distributing the proceeds of the spamming operation.

If convicted, Kilbride and Schaffer each face a maximum sentence of 20 years in prison on the money laundering charge, and five years in prison on the obscenity charges. All three defendants also face a maximum sentence of five years in prison on each of the spamming and criminal conspiracy charges. Schaffer also faces a maximum sentence of two years in prison on the improper pornographic recordkeeping charge. The government is also seeking the forfeiture of proceeds allegedly obtained during the commission of these offenses.

A fourth individual – Andrew Ellifson, 31, of Scottsdale, Arizona – pleaded guilty on Feb. 18, 2005 to one spamming count under the CAN-SPAM Act and one count of criminal conspiracy. In a plea agreement unsealed today, Ellifson also agreed to forfeit money obtained in the commission of these crimes. According to today's indictment, Ellifson assisted in the

creation, operation, and management of the computer network used to transmit the spam e-mails sent by the operation. Ellifson faces a maximum penalty of five years in prison for each of the spamming and criminal conspiracy offenses. Ellifson's sentencing is scheduled for Sept. 26, 2005.

This case is being prosecuted by Trial Attorney William A. Hall, Jr., of the Child Exploitation and Obscenity Section (CEOS) of Criminal Division at the U.S. Department of Justice, Washington, D.C., and John J. Tuchi and John R. Lopez, IV, Assistant United States Attorneys, District of Arizona. It was investigated by the Phoenix Field Office of the Federal Bureau of Investigation and CEOS's High Tech Investigative Unit.

The charges contained in this indictment are allegations only and the defendants are presumed innocent until and unless convicted at trial.

#

05-431